

AN ACT

RELATING TO LIVESTOCK; AMENDING, REPEALING, ENACTING AND RECOMPILING SECTIONS OF THE LIVESTOCK CODE TO MODERNIZE STATUTES RELATING TO LIVESTOCK AND THE LIVESTOCK INDUSTRY; ELIMINATING AND PRESCRIBING POWERS AND DUTIES OF THE NEW MEXICO LIVESTOCK BOARD, INSPECTORS, LIVESTOCK OWNERS AND OTHERS DEALING WITH LIVESTOCK; CHANGING AND CHARGING FEES; STANDARDIZING ASSESSMENTS; EXTENDING THE SUNSET PROVISION; STANDARDIZING PENALTIES; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 77-2-1 NMSA 1978 (being Laws 1967, Chapter 213, Section 1, as amended) is amended to read:

"77-2-1. SHORT TITLE--PURPOSE.--Chapter 77, Articles 2 through 18 NMSA 1978 may be cited as "The Livestock Code". The Livestock Code shall be liberally construed to carry out its purposes, which are to promote greater economy, service and efficiency in the administration of the laws relating to the livestock industry of New Mexico, to control disease, to prevent the theft or illegal movement of livestock and to oversee the New Mexico meat inspection program."

Section 2. Section 77-2-1.1 NMSA 1978 (being Laws 1993, Chapter 248, Section 2, as amended) is amended to read:

"77-2-1.1. DEFINITIONS.--As used in The Livestock Code:

A. "animals" or "livestock" means all domestic or domesticated animals that are used or raised on a farm or ranch, including the carcasses thereof, and exotic animals in captivity and includes horses, asses, mules, cattle,

sheep, goats, swine, bison, poultry, ostriches, emus, rheas, camelids and farmed cervidae upon any land in New Mexico; provided that for the purposes of Chapter 77, Article 9 NMSA 1978, "animals" or "livestock" have the meaning defined in that article. "Animals" or "livestock" does not include canine or feline animals. For the purpose of the rules governing meat inspection, wild animals, poultry and birds used for human consumption shall also be included within the meaning of "livestock" or "animal";

B. "bill of sale" means an instrument in substantially the form specified in The Livestock Code by which the owner or his authorized agent transfers to the buyer the title to animals described therein;

C. "bison" or "buffalo" means a bovine animal of the species bison;

D. "board" means the New Mexico livestock board;

E. "bond" means cash or an insurance agreement from a New Mexico licensed surety or insurance corporation pledging surety for financial loss caused to another, including certificate of deposit, letter of credit or other surety as may be approved by the United States department of agriculture, packers and stockyards administration or the board;

F. "brand" means a symbol or device in a form approved by and recorded with the board as may be sufficient to readily distinguish livestock should they become intermixed with other animals or livestock;

G. "brand inspector" means an inspector who is not certified as a peace officer;

H. "carcasses" means dead or dressed bodies of

livestock or parts thereof;

I. "cattle" means animals of the genus Bos, including dairy cattle, and does not include any other kind of livestock;

J. "dairy cattle" means animals of the genus Bos raised not for consumption but for dairy products and distinguished from meat breed cattle;

K. "director" means the executive director of the board;

L. "disease" means a communicable, infectious or contagious disease;

M. "district" means a livestock inspection district;

N. "estrays" means livestock found running at large upon public or private lands, either fenced or unfenced, whose owner is unknown, or that is branded with a brand that is not on record in the office of the board or is a freshly branded or marked offspring not with its branded or marked mother, unless other proof of ownership is produced;

O. "inspector" means a livestock or brand inspector;

P. "livestock inspector" means a certified inspector who is granted full law enforcement powers for enforcement of The Livestock Code;

Q. "mark" means an ear tag or ownership mark that is not a brand;

R. "meat" means the edible flesh of poultry, birds or animals sold for human consumption and includes livestock, poultry and livestock and poultry products;

S. "mule" means a hybrid resulting from the cross of a horse and an ass; and

T. "person" means an individual, firm, partnership, association, corporation or similar legal entity."

Section 3. Section 77-2-7 NMSA 1978 (being Laws 1967, Chapter 213, Section 6, as amended) is amended to read:

"77-2-7. ADDITIONAL POWERS OF THE BOARD.--In addition to the powers transferred from the cattle and sheep sanitary boards, the board may:

A. exercise general regulatory supervision over the livestock industry of this state in order to protect the industry from theft and diseases and in order to protect the public from diseased or unwholesome meat or meat products;

B. appoint and fix the salary of an executive director who shall file an oath and be bonded in an amount fixed by the board. The director shall manage the affairs of the board under the direction of the board. He shall be chosen solely on qualifications and fitness for the office. He shall devote his entire time to the duties of the office;

C. employ clerical help, provide office space and purchase equipment, including vehicles;

D. employ livestock inspectors and brand inspectors and other personnel necessary to carry out the purposes of The Livestock Code. All livestock inspectors appointed by the board shall have the same powers as any other peace officer in the enforcement of that code;

E. appoint a state veterinarian and subordinate veterinarians as are necessary to carry out the duties of the board;

F. adopt and promulgate rules to control the importation and exportation of animals;

G. establish livestock inspection districts;

H. establish quarantine, provide its boundaries and give notice of the quarantine and do all other things necessary to effect the object of the quarantine and to protect the livestock industry of this state from disease and prevent the spread of disease;

I. adopt and promulgate rules for meat inspection, including the slaughter and disposition of the carcasses of livestock affected with diseases when the action appears necessary to prevent the spread of any contagion or infection among livestock;

J. adopt and promulgate rules governing the importation, manufacture, sale, distribution or use within the state of serums, vaccine and other biologicals intended for diagnostic or therapeutic uses with livestock and regulate the importation, manufacture or use of virulent blood or living virus of any diseases affecting livestock;

K. set fees or charges, not to exceed one hundred dollars (\$100) per call, for any services rendered by the board or its employees that are deemed necessary by the board and for which no fee has been set by statute;

L. consider the views of the livestock industry in the administration of The Livestock Code;

M. adopt and promulgate rules to otherwise carry out the purposes of The Livestock Code;

N. hold hearings and subpoena witnesses for the purpose of investigating or enforcing The Livestock Code or rules established pursuant to that code; and

O. enter into joint powers agreements with Indian nations, tribes or pueblos to promote cooperation in carrying out the provisions of The Livestock Code."

Section 4. Section 77-2-8 NMSA 1978 (being Laws 1969, Chapter 177, Section 1) is amended to read:

"77-2-8. RESEARCH AND PROMOTION OF MEAT AND MEAT PRODUCTS.--The board may enter into contracts for research into and promotion of meat and meat products. The contracts shall carry provisions for financing, and the board may accept and expend voluntary contributions from any source to finance the contracts. The provisions of this section shall not apply to or include cattle coming out of feed lots."

Section 5. Section 77-2-13 NMSA 1978 (being Laws 1891, Chapter 34, Section 9, as amended) is amended to read:

"77-2-13. RECORDS--CERTIFIED COPY EVIDENCE.--The records required to be kept by the director, including inspector reports, shall be maintained by the board in a readily available manner, and a certified copy of any such records under the hand and seal of the director or the verified oath of an inspector shall be prima facie evidence in all courts of this state of the truth of any fact required to be recorded therein."

Section 6. Section 77-2-14 NMSA 1978 (being Laws 1937, Chapter 205, Section 1, as amended) is amended to read:

"77-2-14. ATTORNEY--DUTIES.--The board may employ a competent attorney to give advice and counsel in regard to any matter connected with the duties of the board, to represent the board in any legal proceedings and to aid in the enforcement of the laws in relation to livestock. The board shall fix the compensation to be paid to such

attorney."

Section 7. Section 77-2-15 NMSA 1978 (being Laws 1937, Chapter 205, Section 2, as amended) is amended to read:

"77-2-15. SPECIAL TAXES--LEVY--COLLECTION.--

A. Each year the board of county commissioners of each county shall at its first meeting after the return of the assessment of the property for taxation by the county assessors of each county, levy a special tax at a rate to be fixed each year by the New Mexico livestock board. Subject to the provisions of Section 7-37-7.1 NMSA 1978, the New Mexico livestock board shall, in each year, order the levy of a tax on livestock at a rate not to exceed ten dollars (\$10.00) on each one thousand dollars (\$1,000) of net taxable value, as that term is defined in the Property Tax Code, of the livestock. The New Mexico livestock board may set different rates for individual classes of livestock.

B. The order imposing the levy of the tax shall be made on or before June 30 in each year and shall be certified to the department of finance and administration by the director. The department of finance and administration shall certify the amount of the levy to the board of county commissioners of each county, and the board of county commissioners shall include the levy in its annual levy of taxes. The special tax shall be collected in each county and paid to the state treasurer in the manner provided by law for the collection and payment of other state taxes. Such funds shall be remitted to the New Mexico livestock board for deposit in the interim receipts and disbursements fund."

Section 8. Section 77-2-22 NMSA 1978 (being Laws 1933,

Chapter 53, Section 2, as amended) is amended to read:

"77-2-22. PENALTY FOR VIOLATING RULE.--Any person who violates a rule adopted under the power granted to the board unless the penalty has been fixed by law is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978."

Section 9. Section 77-2-28 NMSA 1978 (being Laws 1981, Chapter 5, Section 1, as amended) is amended to read:

"77-2-28. TERMINATION OF BOARD LIFE--DELAYED REPEAL.--The New Mexico livestock board is terminated July 1, 2009 unless continued by the legislature pursuant to the Sunset Act. The board shall continue to operate according to all of the provisions of Chapter 77, Article 2 NMSA 1978 until July 1, 2010 for the purpose of winding up its affairs. Effective July 1, 2010, Chapter 77, Article 2 NMSA 1978 is repealed."

Section 10. Section 77-2-29 NMSA 1978 (being Laws 1981, Chapter 357, Section 2, as amended) is amended to read:

"77-2-29. FEES.--The following fees shall be fixed by the board for services rendered pursuant to the provisions of The Livestock Code:

A. an inspection or permit fee not to exceed sixteen cents (\$.16) per head to be charged for the importation or exportation of sheep and goats pursuant to Section 77-8-3 NMSA 1978 and a service charge in an amount not to exceed ten dollars (\$10.00) for each inspection request; provided that the board shall not increase the fee more than four cents (\$.04) in any one fiscal year;

B. a fee for recording a transfer of a brand pursuant to Section 77-9-7 NMSA 1978, as recompiled, in an amount not to exceed fifty dollars (\$50.00);

C. a fee for recording a brand or researching a brand pursuant to Section 77-9-10 NMSA 1978, as recompiled, in an amount not to exceed fifty dollars (\$50.00);

D. a fee for additional copies of certified copies of brands pursuant to Section 77-9-10 NMSA 1978, as recompiled, in an amount not to exceed five dollars (\$5.00) per copy;

E. a fee for the recording of a holding brand pursuant to Section 77-9-16 NMSA 1978, as recompiled, in an amount not to exceed one hundred dollars (\$100), which recording shall be valid for one year from the date of recording, and an additional fee in an amount not to exceed one hundred dollars (\$100) for each annual renewal;

F. a fee for the rerecording of brands pursuant to Section 77-9-20 NMSA 1978, as recompiled, in an amount not to exceed fifty dollars (\$50.00);

G. a fee for the inspection of livestock pursuant to Section 77-9-38 or 77-10-4 NMSA 1978 in an amount not to exceed fifty cents (\$.50) per head and a service charge in an amount not to exceed ten dollars (\$10.00) for each inspection request; provided that the board may not increase the inspection fee more than ten cents (\$.10) in any one fiscal year;

H. a fee for the inspection of hides pursuant to Section 77-9-54 NMSA 1978 in an amount not to exceed fifty cents (\$.50) per hide and a service charge in an amount not to exceed ten dollars (\$10.00) for each inspection request;

provided that the board may not increase the inspection fee more than ten cents (\$.10) in any one fiscal year;

I. a fee for the handling of the proceeds of the sale of an estray pursuant to Section 77-13-6 NMSA 1978 in an amount not to exceed ten dollars (\$10.00);

J. a fee for the impoundment of trespass livestock pursuant to Section 77-14-36 NMSA 1978 in an amount not to exceed ten dollars (\$10.00) per head per day and a reasonable charge for the moving of trespass livestock pursuant to Section 77-14-36 NMSA 1978 to be set by the board;

K. a fee for the licensing of a livestock auction market pursuant to Section 77-10-2 NMSA 1978 in an amount not to exceed twenty-five dollars (\$25.00);

L. a fee for issuing a transportation permit pursuant to Section 77-9-42 NMSA 1978 in an amount not to exceed fifty dollars (\$50.00);

M. a fee for the licensing of a cattle or sheep rest station pursuant to Section 77-9A-2 NMSA 1978 in an amount not to exceed twenty-five dollars (\$25.00); and

N. a fee for issuing a certificate of brand exemption pursuant to Section 77-8-22 or Section 77-9-3 NMSA 1978 in an amount not to exceed fifty dollars (\$50.00)."

Section 11. Section 77-9-8 NMSA 1978 (being Laws 1895, Chapter 6, Section 4, as amended) is recompiled in Chapter 77, Article 2 NMSA 1978 and is amended to read:

"REGISTRATION OF BRANDS AND MARKS--BOARD.--Except as otherwise authorized by the board, the board is the sole authority for the registration of brands, marks or electronic identification on livestock in this state."

Section 12. Section 77-9-9 NMSA 1978 (being Laws 1895, Chapter 6, Section 5, as amended) is recompiled in Chapter 77, Article 2 NMSA 1978 and is amended to read:

"BRAND BOOKS.--The board shall keep a suitable record of all registered brands, marks and electronic identification used for the identification of livestock in this state."

Section 13. Section 77-9-10 NMSA 1978 (being Laws 1895, Chapter 6, Section 9, as amended) is recompiled in Chapter 77, Article 2 NMSA 1978 and is amended to read:

"RECORDING BEFORE USE--RECORDING FEE--CONFLICTING BRANDS.--

A. A brand shall not be used until recorded. A facsimile of the brand and a recording fee fixed by the board shall be forwarded to the director. One certified copy of the recorded brand shall be furnished to the owner of the brand by the director when the brand is recorded.

B. The director shall immediately record the brand unless it has been recorded previously or conflicts with a prior recorded brand. In that event, the director shall return the facsimile unrecorded and charge a fee for the research.

C. Additional certified copies of brands recorded may be obtained from the director by the payment of a fee to be fixed by the board in a sum not to exceed the amount prescribed by law."

Section 14. Section 77-9-11 NMSA 1978 (being Laws 1905, Chapter 30, Section 1, as amended) is recompiled in Chapter 77, Article 2 NMSA 1978 and is amended to read:

"FEES--DISPOSITION.--The fees for recording or

researching brands and for furnishing certified copies of the recording or research shall be placed to the credit of the New Mexico livestock board interim receipts and disbursements fund."

Section 15. Section 77-9-13 NMSA 1978 (being Laws 1895, Chapter 6, Section 12, as amended) is recompiled in Chapter 77, Article 2 NMSA 1978 and is amended to read:

"BRAND BOOK.--The director shall publish a brand book in which shall be given a facsimile or copy of all brands recorded in the office of the board, together with the owner's name and address. The board may publish if it deems best to do so a limited number of brand books in addition to the number required by the provisions of this section and to sell them for such price as the board considers reasonable and proper. The price shall not be less than the actual cost."

Section 16. Section 77-9-14 NMSA 1978 (being Laws 1895, Chapter 6, Section 13, as amended) is recompiled in Chapter 77, Article 2 NMSA 1978 and is amended to read:

"MORE THAN ONE BRAND UNLAWFUL--EXCEPTIONS--PENALTY.--

A. It is unlawful for an owner of livestock in originally marking or branding livestock to make use of or keep up more than one mark or brand; provided that an owner may own and possess livestock in different marks or brands if they were acquired by him by purchase or other lawful manner and evidenced by a bill of sale from the previous owner of the livestock having such brands or from the heirs, executors, administrators or legal representatives of the owner. Livestock so acquired shall be branded or marked as provided in The Livestock Code by and with the recorded

brand or mark of the person acquiring the livestock. It is lawful for the purpose of identification during the pendency of a mortgage or lien to brand the increase of the branded livestock in the recorded brand designated in the mortgage or lien.

B. A brand shall not be altered by placing another brand on it or in the same location.

C. A person who unlawfully brands livestock contrary to the provisions of The Livestock Code is guilty of a misdemeanor and upon conviction shall be punished in accordance with the provisions of Section 31-19-1 NMSA 1978 for each offense."

Section 17. Section 77-9-15 NMSA 1978 (being Laws 1895, Chapter 6, Section 14, as amended) is recompiled in Chapter 77, Article 2 NMSA 1978 and is amended to read:

"BRANDS OF MINORS.--Minors owning livestock separate from that of the parent or guardian may have a mark or brand, which shall be recorded in accordance with the requirement of The Livestock Code, but the parent or guardian shall be responsible for the proper use of the mark or brand by any minor."

Section 18. Section 77-9-16 NMSA 1978 (being Laws 1912, Chapter 55, Section 2, as amended) is recompiled in Chapter 77, Article 2 NMSA 1978 and is amended to read:

"FILING OF FACSIMILE--DESIGNATION OF BRANDS--HOLDING BRAND RENEWAL AND FEE--BRANDING INCREASE--OFFENSES--PENALTY.--An owner of livestock desiring to use in branding a brand not already recorded in the office of the board shall file with the director a facsimile of the desired brand. The owner may record the desired brands as holding

brands upon livestock so owned upon furnishing to the director a full description as to the number, class and locality of all livestock branded with the holding brand. A recorded holding brand may be used also on a show animal. A fee shall be charged for the recording of a holding brand, which recording shall be valid for a period of one year or until the described livestock depart the state, whichever comes first. The recording may be renewed for additional years by the payment of a fee at each yearly renewal; provided that it is unlawful for the owner to brand the increase of such livestock in any other brand than the recorded brand of the owner except in the case of mortgaged livestock as provided in Section 77-9-14 NMSA 1978, as recompiled. A person who violates the provisions of this section is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978 for each offense."

Section 19. Section 77-9-20 NMSA 1978 (being Laws 1923, Chapter 146, Section 1, as amended) is recompiled in Chapter 77, Article 2 NMSA 1978 and is amended to read:

"RE-RECORDING OF BRANDS--NOTICE--PUBLICATION--FEES.--

A. The board shall cause all brands now on record to be re-recorded whenever the board deems necessary to clear records of unused brands. For this purpose, the board shall mail a notice, addressed to each owner of a brand now of record with the board at the current address shown on the brand record, requiring the owners of brands to file with the director any brand being on record to the owners. In addition to this notice, the board shall publish in either English or Spanish or both in at least one newspaper in each

county in this state where there is a newspaper a copy of the notice to re-record. The publication shall continue for at least four consecutive weeks.

B. Within three months from the date of the first publication of the notice to re-record, owners of brands of record in the office of the board shall file with the director the brands in actual use and recorded by them and pay the re-recording fee. The fees shall be deposited in the proper fund of the board. Re-recording shall not be required more often than once in a three-year period."

Section 20. Section 77-3-1 NMSA 1978 (being Laws 1909, Chapter 9, Section 1, as amended) is amended to read:

"77-3-1. DISEASES--INSPECTION--QUARANTINE.--

A. The board may use all proper means to prevent the spreading of dangerous and fatal diseases among livestock and for the extirpation of such diseases. If a disease breaks out in the state, it is the duty of all persons owning or having in their charge livestock infected to immediately notify the board of the existence of such disease. The board shall cause proper examination to be made by a veterinarian and, if the disease is found to be a dangerously contagious or infectious malady, the board shall order the diseased livestock that have been exposed to be strictly quarantined and shall order any premises or farms where such disease exists or has recently existed to be put in quarantine so that no livestock subject to the disease is removed from or brought to the premises or places so quarantined. The board shall prescribe such rules as it deems necessary to prevent the disease from being communicated in any way from the premises so quarantined.

B. The board may expend funds to prevent, suppress, control or eradicate any disease or parasite of livestock that the board has by rule declared to be a disease or pest of significant economic impact to any segment of the livestock industry. This power shall include the right to purchase and destroy or sell infected or exposed livestock.

C. Whenever the board finds any livestock infested with a disease or pest declared by the board to be of significant economic impact, the board may request the governor to declare an emergency as provided in Section 6-7-3 NMSA 1978."

Section 21. Section 77-3-2 NMSA 1978 (being Laws 1909, Chapter 9, Section 2, as amended) is amended to read:

"77-3-2. REPORT OF DISEASED LIVESTOCK--OFFENSES--
EXPENSE RECOVERY--DUTIES OF SHERIFFS--PENALTY.--

A. A person who has in his possession or under his care any livestock that he knows or has reason to believe is affected with a disease shall without unnecessary delay tell the board or some member of the board or the sheriff of the county in which the livestock is situate. The sheriff shall immediately notify the director.

B. A person shall not bring into this state or sell or dispose of any livestock known to be affected or exposed to disease or move diseased or exposed livestock from quarantine or move any livestock to or from a district in the state declared to be infected with a disease or bring into this state any diseased livestock from a district outside the state that may at any time be legally declared to be affected with such disease without the consent of the

board.

C. A person who violates a provision of Subsection A or B of this section is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978 for each head illegally moved.

D. Any guard or other proper expenses incurred in the quarantining of the livestock shall be paid by the owner, and if the same is refused, after demand made by order of the board, an action may be brought to recover the same with costs of suit, which action may be brought in the name of the state for the use of the board. It is the duty of all sheriffs to execute all lawful orders of the board."

Section 22. Section 77-3-5 NMSA 1978 (being Laws 1917, Chapter 30, Section 1, as amended) is amended to read:

"77-3-5. INFECTED PASTURES AND BUILDINGS--NOTICES.--

A. If a pasture, building, corral, yard or enclosure where livestock have been or may be pastured or confined is infected with or has become dangerous on account of a disease or poisonous weed or plant, the board may post danger or quarantine notices in not less than two conspicuous places in or upon such pasture, building, corral, yard or enclosure sufficient to warn all owners and others in charge of livestock of the danger or quarantine. When the danger has passed or the quarantine is lifted, the board shall require the posted notices to be removed.

B. Except as authorized by the director, a person who removes a posted notice of danger or quarantine is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-

19-1 NMSA."

Section 23. Section 77-3-8 NMSA 1978 (being Laws 1909, Chapter 9, Section 8, as amended) is amended to read:

"77-3-8. DESTRUCTION OF DISEASED LIVESTOCK--PAYMENT TO THE OWNER--APPRAISAL.--In cases where the board deems it necessary to destroy any diseased, infected or exposed livestock in order to prevent the spread of dangerous and fatal diseases such as glanders, farcy, tuberculosis, pleuro-pneumonia, rinderpest, foot and mouth disease or any other dangerous and fatal disease, foreign or other, which according to the rules, regulations and standards adopted by the United States department of agriculture animal and plant health inspection service cannot be extirpated by means other than the destroying of the diseased, infected or exposed livestock, the board may have the livestock killed and burned or buried under such rules as the board may prescribe. The board shall cooperate with the United States department of agriculture in paying to the owners of the slaughtered livestock the allowed indemnity determined by the United States department of agriculture animal and plant health inspection service and the board."

Section 24. Section 77-3-9 NMSA 1978 (being Laws 1909, Chapter 9, Section 4, as amended) is amended to read:

"77-3-9. ACCEPTANCE OF FEDERAL RULES AND REGULATIONS--COOPERATION.--The board may accept on behalf of the state the rules and regulations prepared by the secretary of the United States department of agriculture relating to the control of diseases of livestock and to cooperate with the authorities of the United States in the enforcement of the provisions of all acts and regulations relating to diseased

livestock."

Section 25. Section 77-3-10 NMSA 1978 (being Laws 1909, Chapter 9, Section 5, as amended) is amended to read:

"77-3-10. FEDERAL OFFICERS--POWERS.--The representatives of the United States department of agriculture animal and plant health inspection service under the specific authorization of the board may inspect, quarantine and condemn livestock affected with a disease or suspected of being affected with a disease or that have been exposed to a disease and for these purposes may enter any grounds or premises in the state. The representatives may call upon peace officers to assist them in the discharge of their duties as specified by the board in carrying out federal laws and regulations as provided in Section 77-3-9 NMSA 1978. The peace officers shall assist the representatives when so requested and authorized by the board."

Section 26. Section 77-3-11 NMSA 1978 (being Laws 1949, Chapter 48, Section 1, as amended) is amended to read:

"77-3-11. MARKING OR BRANDING OF CATTLE AND BISON FOUND INFECTED WITH TUBERCULOSIS OR BANG'S DISEASE.--Whenever cattle or bison within this state are tested for tuberculosis or Bang's disease by the board or its agents or employees or by an authorized agent or employee of the United States department of agriculture animal and plant health inspection service, if an animal so tested is found to have a positive reaction to such tests, it shall be permanently marked or branded according to the requirements of the board by the owner or his agent. The type of mark or brand to be used shall be designated by the board, and an

animal shall be marked or branded immediately upon instructions from the board."

Section 27. Section 77-3-12 NMSA 1978 (being Laws 1949, Chapter 48, Section 2, as amended) is amended to read:

"77-3-12. PENALTY.--A person who fails to identify his animals as required by Section 77-3-11 NMSA 1978 is guilty of a misdemeanor for each head in violation and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978."

Section 28. Section 77-3-13 NMSA 1978 (being Laws 1889, Chapter 106, Section 8, as amended) is amended to read:

"77-3-13. DANGEROUS EPIDEMICS--EMERGENCY RULES--IMPORTS PROHIBITED--PENALTY.--

A. When the board or any of its authorized representatives finds that a disease, the nature of which is known to be fatal or highly injurious to livestock, pigeons or fowl of any kind, has become epidemic or exists in a locality in a country, state or territory beyond the limits of this state, the board shall immediately adopt and promulgate emergency rules to prohibit the importation into this state of any animals, including livestock, subject to the disease that may be so reported.

B. The board shall specify such restrictions and safeguards as it deems proper and shall specify for the protection of livestock in this state and may also prohibit the importation into this state of any hoofs, hides, skins or meat of any animals or any hay, straw fodder, cottonseed or other products or material calculated to carry the infection of such disease.

C. Emergency rules may be adopted and promulgated without the notice and hearing required of other rules and shall take effect immediately. If the board contemplates that an emergency rule will be in effect for longer than ninety days, it shall give notice and hold a hearing to adopt the emergency rule as a rule.

D. Any person who violates any provision of this section or an emergency rule issued in accordance with this section is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978 for each head and is also liable in a civil action for any damages and loss sustained by reason of such importation of the livestock or of any of the products provided for in this section."

Section 29. Section 77-3-14 NMSA 1978 (being Laws 1889, Chapter 106, Section 9, as amended) is amended to read:

"77-3-14. HEALTH CERTIFICATE--INSPECTION--PERMIT--PENALTY.--

A. After the issuance of an emergency rule pursuant to the provisions of Section 77-3-13 NMSA 1978 and while the emergency rule continues in force, it is unlawful for a person to drive or transport or cause to be driven or transported into this state any livestock that by any direct or circuitous route might have come from any place or district covered by the emergency rule without first having obtained a certificate of health from a veterinarian or a permit in writing from the board under such rules as the board prescribes.

B. A person failing to comply with this provision

is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978 and is also personally liable for all loss and damages sustained by any persons by reason of the introduction of a disease from the livestock unlawfully imported into this state.

C. During the time covered by the emergency rule, all livestock desiring to enter the state shall submit to an inspection and shall not be permitted to enter the state until a written or printed permit is issued by the board. A livestock inspector or other agent of the board may require the person in charge of the livestock to produce the permit for his inspection, and any person refusing to produce the permit at any time within a year from the time the livestock were driven in is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978."

Section 30. Section 77-3-14.1 NMSA 1978 (being Laws 1993, Chapter 248, Section 28) is amended to read:

"77-3-14.1. AGID TESTS REQUIRED.--The board shall adopt rules prohibiting the driving or transporting into this state of any horses or other equidae that have not tested negative to the AGID, or Coggins, test or a United States department of agriculture-approved equivalent test for equine infectious anemia within twelve months prior to the date of entry, the evidence of which test result shall be shown on a health certificate; excepting from regulation only those foals accompanied in shipment by a negative-tested dam, those horses or other equidae consigned directly to slaughter."

Section 31. Section 77-4-1 NMSA 1978 (being Laws 1905, Chapter 31, Section 1, as amended) is amended to read:

"77-4-1. DISEASE ERADICATION--RULES.--The board shall determine the existence of and employ the most efficient and practical means to prevent, suppress, control and eradicate the disease known as mange or scabies or any other disease among livestock and to direct and regulate the handling or treating of any livestock when infected or that it may have good reason to believe has been exposed to any of the diseases; to make and adopt quarantine and sanitary rules that, so far as practicable, conform to the regulations of the United States department of agriculture as they may be from time to time promulgated; and to create and define districts within which such disease exists. In determining the districts within this state in which such disease from time to time exists, the board shall cooperate with the United States department of agriculture. The costs of treatment of livestock pursuant to this section are the responsibility of the owner of the livestock."

Section 32. Section 77-4-8 NMSA 1978 (being Laws 1905, Chapter 31, Section 8, as amended) is amended to read:

"77-4-8. OFFENSES--PENALTY.--A person who willfully violates any provisions of Sections 77-4-1 through 77-4-8 NMSA 1978 or rules promulgated in conformity with those sections or who in any manner hinders, obstructs or resists the execution of a rule or hinders, obstructs or resists an officer or employee of the board in the discharge of his duty or in the exercise of his lawful powers or who willfully or negligently breaks any quarantine or willfully or negligently suffers any quarantined livestock to escape

from any quarantine is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978."

Section 33. Section 77-5-1 NMSA 1978 (being Laws 1929, Chapter 159, Section 1, as amended) is amended to read:

"77-5-1. TUBERCULOSIS--EXAMINATIONS.--The board may make tests and examinations for the purpose of ascertaining whether any domestic livestock in the state are affected with tuberculosis. The tests or examinations shall be made by veterinarians of the board, inspectors of the United States department of agriculture animal and plant health inspection service or other veterinarians authorized by the board to perform the tests and examinations."

Section 34. Section 77-5-2 NMSA 1978 (being Laws 1929, Chapter 159, Section 2, as amended) is amended to read:

"77-5-2. INFECTED LIVESTOCK--DESTRUCTION.--If, upon making any tests or examinations as provided for in Chapter 77, Article 5 NMSA 1978, it appears that any livestock are infected with tuberculosis and that the public interest would be best served through the destruction of the livestock, the board shall cause the destruction of the livestock in a manner deemed most expedient."

Section 35. Section 77-5-5 NMSA 1978 (being Laws 1929, Chapter 159, Section 5) is amended to read:

"77-5-5. OFFENSES--PENALTY.--A person, whether acting as a common carrier or otherwise, who brings into New Mexico any dairy cattle of the kind described in Section 77-5-4 NMSA 1978 in violation of the provisions of Chapter 77, Article 5 NMSA 1978 or of any of the rules promulgated by the board for the enforcement of that article is guilty of a

misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978."

Section 36. Section 77-8-2 NMSA 1978 (being Laws 1951, Chapter 188, Section 11) is amended to read:

"77-8-2. QUARANTINE--TREATMENT.--Sheep or goats afflicted with or exposed to a disease shall be immediately placed under quarantine under the supervision of a veterinarian or inspector in conformity with the rules of the board. The sheep or goats shall not be moved from the quarantine area except under the supervision of a veterinarian or inspector until a veterinarian declares them to be free of disease or until the board otherwise grants permission for the moving of the sheep or goats. The sheep or goats shall be treated under the direction of a veterinarian or inspector at once and thereafter as often as necessary until they are declared free of the disease by a veterinarian or inspector."

Section 37. Section 77-8-3 NMSA 1978 (being Laws 1951, Chapter 188, Section 12, as amended) is amended to read:

"77-8-3. IMPORTATION--NOTICE--INSPECTION--FEES.--

A. A person intending to bring sheep or goats into the state from another country or state shall give notice of his intention to the director by certified letter or delivery in person or by telephone to the director or other authorized official of the board so that the notice is received prior to the proposed day of entry. The notice shall state the number of head, the date and place the sheep or goats will be loaded and their destination. The director shall then issue a permit for entry of the sheep or goats

into the state, stating in the permit the applicable board rules to be complied with before or after entry into the state.

B. The shipment shall be accompanied by a health certificate issued by a federal or state inspector or authorized veterinarian that the sheep or goats are healthy and free from disease. On arrival, the owner or person in charge of the sheep or goats shall not commingle the imported sheep or goats or release them to pasture until the inspector examines the sheep or goats as to their sanitary condition and inspects and makes a record of all the marks and brands on the sheep or goats, which record shall be forwarded to the board office and used for future reference. The inspector shall issue the owner or person in charge of the sheep or goats a copy of the brand inspection certificate if the inspector is satisfied all requirements have been met.

C. An inspection fee to be fixed by the board shall be charged and paid by the owner or person in charge of the sheep or goats to the board and received by the inspector for the inspection and certificates. If the inspector suspects that the sheep or goats are infected with a disease or finds that the owner or person in charge has not met the entry requirements, the inspector shall require the owner or the person in charge to comply with the provisions of Section 77-8-2 NMSA 1978 or other applicable statutes and rules. The provisions of this section shall not apply to sheep or goats loaded on transport vehicles that are being transported from some country or state to another country or state through New Mexico if the sheep or

goats are not to be unloaded in this state except in approved rest stations or other quarantine pens for the purpose of feeding and watering the sheep or goats for a period of time not to exceed twenty-four hours."

Section 38. Section 77-8-5 NMSA 1978 (being Laws 1951, Chapter 188, Section 14) is amended to read:

"77-8-5. INFECTED SHEEP OR GOATS--NOTICE TO BOARD.--A person who owns or has under his control sheep or goats that have been exposed to or infected with a reportable disease shall forthwith report such fact to the director. A veterinarian shall be immediately dispatched to examine the sheep or goats and, if found to be so exposed or infected, the veterinarian or inspector shall follow the quarantine and treating provisions set forth in Section 77-8-2 NMSA 1978."

Section 39. Section 77-8-7 NMSA 1978 (being Laws 1951, Chapter 188, Section 16, as amended) is amended to read:

"77-8-7. EXPORTATION--NOTICE--INSPECTION AND PERMIT FEES--PENALTY.--

A. A person intending to ship sheep or goats beyond the limits of the district or the limits of the state shall give notice of his intention to the director or to the inspector for his district by certified letter or by delivery in person or by telephone to the director or inspector so that the notice is received in a reasonable time previous to the proposed date of shipment. The notice shall state the date and place that the sheep or goats will be loaded and destination of the sheep or goats. The board may require an inspector to inspect the sheep or goats as to their sanitary conditions and make a record of all the marks

and brands upon the sheep or goats or the board may provide by rule an alternate means of allowing the movement of sheep or goats. The inspector shall not allow sheep or goats bearing any of the marks declared by the law of this state to be unlawful to be shipped except under express authority of the board. The inspector shall also require each person shipping sheep or goats to exhibit a bill of sale executed as provided by Section 77-8-15 NMSA 1978 or authority in writing to ship the sheep or goats from the recorded owner of all marks and brands upon the sheep or goats unless the person is himself the recorded owner of the marks and brands.

B. The inspector shall issue to the shipper a New Mexico livestock board form-1 certificate of inspection or other document or permit approved by the board if he is fully satisfied that the sheep or goats are free from disease and that the person shipping has rightful ownership of the sheep or goats as evidenced by the brands or marks and bill of sale or has complied with the board's alternative method as provided for in this section and all other applicable rules of the board. This certificate or permit shall authorize the shipping of the sheep and goats out of the state.

C. A fee to be fixed by the board in a sum not to exceed the amount prescribed by law shall be charged for the inspection and certificates, and the inspector shall refuse to issue the certificates until he has been paid the fee. The board shall charge a fee not to exceed the amount prescribed by law for issuing the permits allowed in this section in lieu of inspection. The inspector shall make a

report to the director after each inspection of any matters contained in this section that may be required of him by the director.

D. A person who knowingly ships sheep or goats from one district to another district without an inspection certificate is guilty of a misdemeanor and shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978. A person who knowingly ships sheep or goats outside the state without an inspection certificate is guilty of a fourth degree felony and shall be sentenced in accordance with the provisions of Section 31-18-15 NMSA 1978."

Section 40. Section 77-8-14 NMSA 1978 (being Laws 1951, Chapter 188, Section 26) is amended to read:

"77-8-14. ALTERING MARKS OR BRANDS.--No person shall alter the mark or brand on his or any other sheep or goats, without first having secured written permission from the director and unless an inspector is present to supervise the alteration."

Section 41. Section 77-8-15 NMSA 1978 (being Laws 1951, Chapter 188, Section 27) is amended to read:

"77-8-15. BILLS OF SALE--EVIDENCE OF LARCENY.--

A. A duly executed bill of sale is an instrument in writing by which the owner or his authorized agent transfers to the buyer the title to the sheep or goat described in the bill of sale and guarantees to defend the title against all lawful claims. It shall fully describe in detail the sheep or goat, and such description shall include marks, brands and all other identification. The bill of sale shall be executed the day of the transaction.

B. A purchase sheet properly executed by a licensed livestock auction market constitutes a valid bill of sale.

C. A registration certificate issued by a recognized pure-bred association, properly identifying the animal and properly acknowledged by the secretary of the association, may be used as proof of ownership.

D. An inspection certificate executed as a bill of sale and certified by inspector may be used as proof of ownership.

E. A person shall not sell or buy sheep or goats unless a bill of sale is provided. The possession by a person of sheep or goats having any mark or brand not his recorded mark or brand unless he has a bill of sale or authority in writing to possess or sell such sheep or goats shall be taken as prima facie evidence that he committed larceny of the sheep or goats and shall be sufficient for his conviction of larceny unless the evidence shows his innocence."

Section 42. Section 77-8-16 NMSA 1978 (being Laws 1951, Chapter 188, Section 28) is amended to read:

"77-8-16. REPORT OF ESTRAY SHEEP OR GOATS--SALE.--A person finding estray sheep or goats shall immediately report them to an inspector or the director and deliver them to an inspector upon demand. If the mark or brand on the sheep or goat is recorded in the board office, the director shall notify the owner of record and make arrangements to deliver the sheep or goats to the owner of record if he is the actual owner. If the owner of record no longer owns the sheep or goats, the director shall deliver them to the

subsequent purchaser who can prove ownership with a valid bill of sale. In either case, delivery shall be conditioned upon payment by the claimant of all costs incurred in keeping the sheep or goats and such other expenses as may have been necessarily incurred. If the owner cannot be ascertained after diligent inquiry, the director shall order an inspector to sell them to the person paying the highest cash price for them after giving general or special notice or advertising as the director deems necessary under the circumstances. The money arising from the sale shall be used first to defray the costs and expenses in keeping and advertising the sheep or goats and those incurred in the sale. The residue, if any, shall be placed in the board fund; provided, however, that if at any time within two years after the sale any person shall prove ownership of the sheep or goats at the time they became lost, the residue shall be paid to him."

Section 43. Section 77-8-18 NMSA 1978 (being Laws 1951, Chapter 188, Section 30) is amended to read:

"77-8-18. PENALTIES.--A person who violates the provisions of Section 77-8-2, 77-8-3, 77-8-14 or 77-8-22 NMSA 1978 or rules adopted pursuant to any of those sections is guilty of a misdemeanor for each head and, upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978."

Section 44. Section 77-8-20 NMSA 1978 (being Laws 1963, Chapter 129, Section 6) is amended to read:

"77-8-20. COMMUTING SHEEP OR GOATS--FEES.--

A. For the purpose of this section, "commuting sheep or goats" means sheep or goats that are transferred

from New Mexico to some other state with which New Mexico shares a common boundary and back again or from some other state that shares a common boundary with New Mexico, to New Mexico and back again:

- (1) during any twelve-month period;
- (2) by one owner; and
- (3) for the purpose of seasonal grazing, breeding, lambing or kidding on lands owned or leased by that owner in the course of his normal operations in each of the two states.

B. Owners of commuting sheep or goats shall have them inspected for each movement and shall pay the inspection fees for the sheep or goats normally required by law."

Section 45. A new Section 77-8-22 NMSA 1978 is enacted to read:

"77-8-22. NECESSITY OF BRANDING OR MARKING SHEEP AND GOATS.--

A. A person owning sheep or goats shall have and adopt a brand for them except for registered sheep or goats that are properly identified by legible tattoos and whose owner has been issued a certificate of brand exemption for his flock by the board. The brand shall be applied by any method approved by the board. Each brand shall be recorded in the office of the board. The board may provide for the use of a mark in lieu of the owner's brand if the mark is recorded in conjunction with the brand.

B. Unbranded or unmarked sheep or goats, except offspring with a branded or marked mother, shall be subject to seizure by a peace officer or inspector and shall be

handled and disposed of in the same manner as is provided for the handling and disposal of estrays.

C. Sheep or goats that are purchased shall be rebranded or remarked by the new owner with his recorded brand or mark within thirty days of the purchase date unless he is given special permission by the board or the former owner to use the former owner's recorded brand or mark on the sheep or goats."

Section 46. A new section of Chapter 77, Article 9 NMSA 1978 is enacted to read:

"DEFINITION.--As used in Chapter 77, Article 9 NMSA 1978, "livestock" means horses, asses, mules, cattle or bison."

Section 47. Section 77-9-3 NMSA 1978 (being Laws 1895, Chapter 6, Section 1, as amended) is amended to read:

"77-9-3. NECESSITY OF BRAND--REBRANDING REQUIRED--EXCEPTIONS.--

A. A person who owns livestock shall have and adopt a brand for them. The brand shall be applied with a hot iron on each animal except registered livestock that are properly identified by a legible tattoo and whose owner has been issued a certificate of brand exemption for his herd by the board. Each brand shall be recorded in the office of the board.

B. Unbranded livestock, except offspring with a branded mother or offspring with a mother properly identified as provided in Subsection F of this section, shall be subject to seizure by a peace officer or livestock inspector and shall be handled and disposed of in the same manner as is provided for the handling and disposal of

estrays.

C. Livestock that is purchased shall be rebranded by the new owner with his recorded brand within thirty days, except as provided in Section 77-9-4 NMSA 1978.

D. Subsection A of this section shall not apply to a person owning horses, mules or asses who has been issued a transportation permit as provided in Section 77-9-42 NMSA 1978 or who has a registration certificate for an animal from a recognized breed association or to any person owning horses, mules or asses that have been identified by a freeze mark or a freeze brand recorded with the board. Freeze branding or freeze mark identification requires an iron, first submerged in a bath of liquid nitrogen, to be applied on each animal, resulting in a permanent loss of color in the hair or cessation of hair growth where the brand or mark has been applied.

E. This section does not apply to bison.

F. This section does not apply to a person who owns cattle in confinement at a dairy or feedlot and who has elected to identify his cattle by an alternative means approved by the board for cattle held in those facilities. If cattle held in confinement and identified in accordance with this subsection are removed from confinement and otherwise held in the state, the provisions of Subsection A of this section shall be met prior to removal, unless the cattle are being delivered to an approved auction."

Section 48. Section 77-9-4 NMSA 1978 (being Laws 1961, Chapter 4, Section 1, as amended) is amended to read:

"77-9-4. PENALTY FOR FAILURE TO BRAND OR REBRAND--
CERTAIN SALES PROHIBITED.--

A. All livestock required to be branded pursuant to the provisions of Section 77-9-3 NMSA 1978 shall bear the identical and complete brand recorded in the name of the present owner with the board or, in the alternative, the livestock shall bear the identical and complete brand of a former owner as recorded with the board, in which case, the livestock shall be accompanied by a bill of sale from the former owner to the person claiming to be the present owner, which bill of sale meets the requirements of Section 77-9-22 NMSA 1978.

B. The bill of sale shall contain a written statement by the former owner granting permission to the present owner to use the recorded brand appearing on the livestock, listed in the bill of sale and filed with the board; otherwise the livestock shall be rebranded within thirty days from the date of purchase.

C. A person shall not sell, buy or receive any livestock in the state unless the livestock is branded or has other means of identification acceptable to the board except livestock directly imported from another state. Except as provided in Section 77-9-16 NMSA 1978, as recompiled, all livestock shall be branded with a New Mexico brand within thirty days of entry into the state.

D. A person who violates the provisions of either Section 77-9-3 NMSA 1978 or this section is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with Section 31-19-1 NMSA 1978 for each head."

Section 49. Section 77-9-5 NMSA 1978 (being Laws 1895, Chapter 6, Section 2, as amended) is amended to read:

"77-9-5. BRANDS OF LIVESTOCK--RECORDING--EVIDENCE OF

OWNERSHIP.--No brands of livestock except those recorded pursuant to the provisions of The Livestock Code and are peeled shall be recognized in law as evidence of ownership of the livestock upon which the brand is used unless the owner has other means of identification, including freeze brands and freeze mark identification, that is recognized as evidence of ownership for horses, mules or asses."

Section 50. Section 77-9-22 NMSA 1978 (being Laws 1971, Chapter 196, Section 2) is amended to read:

"77-9-22. BILLS OF SALE--REQUIREMENTS--EVIDENCE OF LARCENY.--

A. A duly executed bill of sale is an instrument in writing by which the owner or his authorized agent transfers to the buyer the title to livestock described in the bill of sale and guarantees to defend the title against all lawful claims. It shall fully describe in detail the livestock, and such description shall include marks, brands and all other identification.

B. The bill of sale shall be executed the day of the transaction.

C. A purchase sheet properly executed by a licensed livestock auction market constitutes a valid bill of sale.

D. A registration certificate issued by a recognized pure-bred association, properly identifying the animal and properly acknowledged by the secretary of the association, may be used as proof of ownership.

E. An inspection certificate executed as a bill of sale and certified by an inspector may be used as proof of ownership.

F. The possession by any person of livestock having a brand not his recorded brand unless he has a bill of sale or authority in writing to possess or sell the livestock shall be taken as prima facie evidence that he committed larceny of the livestock except in instances where stray or injured animals are inadvertently impounded and shall be sufficient for his conviction of larceny unless the evidence shows his innocence."

Section 51. Section 77-9-23 NMSA 1978 (being Laws 1884, Chapter 47, Section 13, as amended) is amended to read:

"77-9-23. BILL OF SALE OF LIVESTOCK--DUTY TO EXHIBIT--VIOLATION--PENALTY.--

A. A person who has purchased or received or has in his possession any livestock either for himself or another shall exhibit the bill of sale for the livestock at the reasonable request of an inspector or other peace officer. A person who fails to produce the bill of sale required in Section 77-9-21 NMSA 1978 or who is unable to exhibit other written evidence of ownership or legal possession is guilty of a misdemeanor and shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978.

B. A person who has purchased or received or has in his possession any livestock either for himself or another and who cannot produce proof of ownership as required by Subsection A of this section shall have the livestock impounded. If sufficient proof of ownership has not been established to the satisfaction of the board within fifteen days of the impoundment, the impounded livestock

will be handled and disposed of in the same manner as provided for the handling and disposal of estrays."

Section 52. Section 77-9-26 NMSA 1978 (being Laws 1921, Chapter 159, Section 1, as amended) is amended to read:

"77-9-26. SALE BY PERSON NOT BRAND OWNER--BILL OF SALE.--A person in this state who sells, transfers or delivers to another person in this state any livestock that is not branded or marked with the brand or mark of the person selling, transferring or delivering the livestock shall deliver to the person buying or receiving the livestock a bill of sale showing from whom the livestock was received as provided in Section 77-9-22 NMSA 1978."

Section 53. Section 77-9-27 NMSA 1978 (being Laws 1921, Chapter 159, Section 2, as amended) is amended to read:

"77-9-27. VIOLATION--PENALTY.--A person who violates the provisions of Section 77-9-26 NMSA 1978 is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978 for each head in offense."

Section 54. Section 77-9-28 NMSA 1978 (being Laws 1943, Chapter 11, Section 1, as amended) is amended to read:

"77-9-28. IMPORTATION OF LIVESTOCK--PERMIT REQUIRED--PENALTY.--

A. A person who brings livestock into this state by any manner or causing them to be brought in shall, before doing so, obtain a permit from the board or its authorized representative. The permit shall contain a list of all the requirements of the board to be complied with before the

livestock can be brought into the state and shall also stipulate any requirements of further tests of the livestock for disease after the livestock are within the state if required by the board. The permit shall accompany the livestock at the time they enter the state, and the requirements set forth in the permit as to tests for diseases or otherwise shall be complied with in every particular before the livestock are permitted to enter. The owner or his agent shall make application to the proper inspector to inspect the imported livestock. The imported livestock shall not be commingled or released to pasture without inspection, except as authorized by the inspector.

B. No prior permits are required for livestock transported directly to international import receiving facilities that are inspected for health of livestock contained in the facilities by the United States department of agriculture or other agency of the United States. Livestock entering at these facilities from a foreign country shall be inspected by an inspector.

C. A person who violates the provisions of this section is guilty of a misdemeanor and upon conviction shall be punished in accordance with the provisions of Section 31-19-1 NMSA 1978 for each head in offense."

Section 55. Section 77-9-29 NMSA 1978 (being Laws 1891, Chapter 34, Section 2, as amended) is amended to read:

"77-9-29. INSPECTION RULES.--In the exercise of the powers and performance of the duties conferred and prescribed by Sections 77-9-30 through 77-9-36 NMSA 1978, the board shall make all necessary rules respecting the inspection of livestock intended for shipment or to be

driven from a district or beyond the limits of this state and also respecting the inspection of hides and slaughterhouses in this state."

Section 56. Section 77-9-30 NMSA 1978 (being Laws 1891, Chapter 34, Section 3, as amended) is amended to read:

"77-9-30. EXPORTED LIVESTOCK--INSPECTION OF BRANDS AND EAR MARKS--RECORD.--The board shall cause the brands and ear marks upon livestock shipped or driven from a district or out of this state to be inspected and a true and correct record of the result of such inspections to be kept in the office of the director for three years. The record shall set forth the date of the inspection; the place where and the person by whom made; the name and current address of the owner, shipper or claimant of the livestock inspected or the names and current addresses of all persons in charge of the livestock at the time of the inspection; the destination of the livestock; a list of all brands and ear marks upon the livestock inspected; and the number and classification of the livestock."

Section 57. Section 77-9-31 NMSA 1978 (being Laws 1891, Chapter 34, Section 4, as amended) is amended to read:

"77-9-31. EXPORT LIVESTOCK TO BE INSPECTED--PENALTIES.--

A. A person shipping or driving or receiving for shipment or driving any livestock from a district or out of this state shall hold the livestock for inspection as provided by law, and it is unlawful for any person to ship, drive or in any manner remove beyond the boundaries of the district or this state any livestock until they have been inspected except as provided in Section 77-9-42 NMSA 1978.

B. A person who knowingly ships, drives or receives for shipment or driving livestock from one district to another without an inspection is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978.

C. A person who knowingly ships or drives or receives for shipment or driving livestock out of state without an inspection is guilty of a fourth degree felony and upon conviction shall be sentenced in accordance with the provisions of Section 31-18-15 NMSA 1978."

Section 58. Section 77-9-32 NMSA 1978 (being Laws 1891, Chapter 34, Section 6, as amended) is amended to read:

"77-9-32. INSPECTION OF LIVESTOCK FOR EXPORT-- APPLICATION--PLACE--PAYMENT FOR DELAY.--A person or his agent having in his charge livestock destined for transportation or to be driven beyond the limits of the district or out of this state shall make application to the proper inspector to inspect the livestock, stating in the application the time the livestock will be ready for inspection. An inspector shall inspect the livestock at a location to be designated by the board, make the record and give the certificate required by law to the owner of the livestock; provided that in the case of livestock transported out of this state, the place of inspection shall be at some stockyards or other convenient place near the proposed point of shipment of the livestock from the state. If the owner or person in charge of the livestock causes any unreasonable delay or loss of time to an inspector, the owner or person in charge of the livestock shall pay the expenses and salary of the inspector during the delay or

loss of time."

Section 59. Section 77-9-33 NMSA 1978 (being Laws 1891, Chapter 34, Section 7, as amended) is amended to read:

"77-9-33. INSPECTION OF EXPORTED LIVESTOCK--REPORT--
INSPECTION OF SLAUGHTERHOUSES--PENALTY.--

A. Every inspector shall be an inspector of brands and ear marks and also an inspector of hides and slaughterhouses, and it is the duty of the inspectors to inspect the brands and ear marks of all livestock transported or driven from a district or out of this state and to make a sworn report to the director of the result of such inspection at least once every thirty days and more often if, in the opinion of the board, it is necessary. Every slaughterhouse in this state shall be carefully inspected by the inspectors, and all hides found in slaughterhouses shall be carefully compared with the records of the slaughterhouses and a report in writing setting forth the number of livestock killed at the slaughterhouse since the last inspection, the names of the persons for whom each of the livestock were slaughtered, the brands and marks upon each hide and any information that may be obtained touching the violation by the owner of any slaughterhouse, or any other person, of any of the provisions of Sections 77-17-9 through 77-17-11 NMSA 1978. For the purpose of making an inspection, an inspector has the right to enter in the day or night any slaughterhouse or other place where livestock are killed in this state and to carefully examine the premises and all books and records required by law to be kept on the premises and to compare the hides found with the records. A person who hinders or obstructs or attempts to

hinder or obstruct an inspector in the performance of any of the duties required of him by law is guilty of a misdemeanor and on conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978 for each offense.

B. Livestock inspectors may arrest persons found in the act or whom they have good reason to believe to be guilty of driving, holding or slaughtering stolen livestock or of violating the inspection laws of the state. Livestock inspectors may carry arms and make arrests in any county in the state."

Section 60. Section 77-9-38 NMSA 1978 (being Laws 1899, Chapter 53, Section 2, as amended) is amended to read:

"77-9-38. INSPECTION FEES--LIEN--RECORD.--There shall be a fee for the inspection of livestock to be fixed by the board not to exceed the amount prescribed by law for each inspection request, and the fee shall be a lien upon the livestock of the owner until paid. Each inspector shall keep a complete record of all livestock inspected by him, listing all brands and marks and the names of the shippers, and a copy of the record shall be preserved by the board."

Section 61. Section 77-9-40 NMSA 1978 (being Laws 1895, Chapter 6, Section 16, as amended) is amended to read:

"77-9-40. EXPORTING OF LIVESTOCK WITHOUT BRAND OF SHIPPER OR BILL OF SALE--INSPECTION--DEFINITION OF ESTRAYS.-

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A. For the purposes of this section, an estray is any livestock being driven or shipped from a district or from this state that is not properly identified as required by The Livestock Code; or not accompanied by a duly executed authority in writing by the owner of the recorded brand on

the livestock authorizing the driving and handling of the livestock by the person in possession of the livestock.

B. If an inspector finds in or with the livestock he is inspecting an estray, he may seize and sequester the estray and hold and dispose of it in the manner provided by law for the disposition of unclaimed livestock by inspectors."

Section 62. Section 77-9-42 NMSA 1978 (being Laws 1969, Chapter 174, Section 4, as amended) is amended to read:

"77-9-42. TRANSPORTATION PERMITS FOR HORSES, MULES AND ASSES--BRAND AND HEALTH CERTIFICATE GOOD FOR LENGTH OF TIME OF OWNERSHIP.--

A. A person who owns horses, mules or asses and desires to transport them within the state for a purpose other than their sale or trade may, upon request to an inspector, be issued an owner's transportation permit in lieu of the required brand certificate for each horse, mule or ass to be transported.

B. The owner's transportation permit issued in lieu of a brand certificate is valid as long as the horse, mule or ass described in the certificate remains under the ownership of the person to whom the permit was issued.

C. The owner's transportation permit or the brand certificate shall accompany the animal for which it was issued at all times while the animal is in transit, and each shall identify the horse, mule or ass by brand, color, markings, sex, age and, where applicable, by registration number, tattoo or other mark as provided by rules of the board.

D. There shall be a fee in an amount set by the board for each owner's transportation permit."

Section 63. Section 77-9-43 NMSA 1978 (being Laws 1929, Chapter 87, Section 2) is amended to read:

"77-9-43. NOTICE OF TRANSPORT--INSPECTION DATE AND PLACE.--Before a person transports any livestock or carcasses from a district or out of state, the person shall notify the nearest inspector that it is desired that the livestock or carcasses be inspected, fixing the date, place and time of the inspection. The person requesting the inspection shall give a reasonable time prior to the proposed shipment date."

Section 64. Section 77-9-54 NMSA 1978 (being Laws 1901, Chapter 45, Section 3, as amended) is amended to read:

"77-9-54. TRANSPORTATION OF HIDES.--

A. It is unlawful for any person to transport or cause to be transported from a district or out of this state any hides that have not been inspected by an inspector and tagged or marked as prescribed by rule of the board. The board may provide by rule for collection of an inspection fee not to exceed the amount prescribed by law, and the fee is a lien upon the hides inspected until paid.

B. Each inspector shall keep a complete record of all inspections made by him and immediately forward to the director on blanks furnished him for that purpose, a complete report of each inspection, giving the names of the purchaser and shipper of the hides and all the brands on the hides. The report shall be preserved by the director as records of his office."

Section 65. Section 77-9-56 NMSA 1978 (being Laws

1921, Chapter 26, Section 1) is amended to read:

"77-9-56. HIDE PURCHASES--BILL OF SALE--CONTENTS--PENALTY.--A person in this state who purchases a hide from livestock is required to secure from the person from whom the hide is purchased, at the time of purchase, a bill of sale showing the brands and the marks, if any, on the hide. A person who violates the provisions of this section is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978 for each offense."

Section 66. Section 77-9-58 NMSA 1978 (being Laws 1961, Chapter 3, Section 1, as amended) is recompiled as Section 77-9A-1 NMSA 1978 and is amended to read:

"77-9A-1. INTERSTATE CATTLE OR SHEEP TRANSPORTATION--CATTLE OR SHEEP REST STATIONS.--It is unlawful for any person to unload cattle or sheep in interstate transit by truck for feed, rest and water except at cattle or sheep rest stations licensed by the board except in emergency situations. In emergency situations, cattle or sheep in transit shall be inspected by an inspector before being reloaded."

Section 67. Section 77-9-59 NMSA 1978 (being Laws 1961, Chapter 3, Section 2, as amended) is recompiled as Section 77-9A-2 NMSA 1978 and is amended to read:

"77-9A-2. CATTLE OR SHEEP REST STATIONS--LICENSING.--The board shall license all cattle and sheep rest stations, which shall meet minimum rules of the board, and shall collect a license fee set by the board for each station licensed. No applicant shall be licensed until he has posted a bond in a form and amount approved by the board

covering the faithful compliance by the licensee with all laws and rules of the board pertaining to cattle or sheep rest stations."

Section 68. Section 77-9-60 NMSA 1978 (being Laws 1961, Chapter 3, Section 3, as amended) is recompiled as Section 77-9A-3 NMSA 1978 and is amended to read:

"77-9A-3. REST STATIONS--RULES.--The board may prescribe rules covering the operation of rest stations for cattle or sheep in transit by truck."

Section 69. Section 77-9-61 NMSA 1978 (being Laws 1961, Chapter 3, Section 4) is recompiled as Section 77-9A-4 NMSA 1978 and is amended to read:

"77-9A-4. VIOLATIONS--PENALTY.--A person who violates any of the provisions of Chapter 77, Article 9A NMSA 1978 or any rule of the board pertaining to rest stations is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978."

Section 70. Section 77-9-63 NMSA (being Laws 1969, Chapter 124, Section 2, as amended) is recompiled as Section 77-9A-5 NMSA 1978 and is amended to read:

"77-9A-5. UNLOADING LIVESTOCK FOR FEED, REST AND WATER--DUMPING CARCASSES--PENALTY.--

A. All livestock that has been confined to a truck for a continuous period of twenty-four hours without feed, rest and water shall be unloaded at the nearest licensed cattle or sheep rest station or other facility providing feed and water for livestock. The livestock shall receive adequate feed and water and a minimum of five hours rest before reloading.

B. A livestock inspector or other peace officer may require a person moving livestock within the state by truck to unload the livestock for feed, rest and water when the logbook of the operator indicates the livestock has been confined for twenty-four hours. If a livestock inspector determines a truck moving livestock to be unsafe or overloaded or if the conditions for the livestock are determined to be unsafe, the livestock inspector shall have the authority to remedy the situation.

C. All expenses incurred in compliance with this section are the responsibility of the livestock owner or his agent.

D. A person shall not dispose of carcasses along the public streets, roads or highways of this state. A person who violates the provisions of this subsection is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978."

Section 71. Section 77-10-1 NMSA 1978 (being Laws 1937, Chapter 59, Section 1, as amended) is amended to read:

"77-10-1. DEFINITIONS.--As used in Chapter 77, Article 10 NMSA 1978:

A. "livestock auction market" means a place, establishment or facility conducted or operated for compensation or profit as a public livestock market consisting of pens or other enclosures, barns, stables, sheds and their appurtenances, including saddle and work stock, and vehicles used in connection therewith or in the operation thereof where livestock not owned by the operator for at least three months next preceding the receipt thereof

is received, held or kept for any purpose other than:

- (1) immediate shipment or immediate slaughter;
- (2) grazing, feeding or breeding; or
- (3) for the sale and exchange of breeding stock by a bona fide livestock association; and

B. "operator" means a person in control of the management or operation of a livestock auction market."

Section 72. Section 77-10-2 NMSA 1978 (being Laws 1937, Chapter 59, Section 2, as amended) is amended to read:

"77-10-2. NECESSITY OF LICENSE--APPLICATION--FEE--BOND--CANCELLATION OF LICENSE--COPIES.--

A. It is unlawful for a person to operate a livestock auction market in this state unless he is the holder of an unexpired, uncanceled license issued by the board.

B. An application to operate a livestock auction market shall set forth:

- (1) the name and address of the applicant;
- (2) the location of the livestock auction market for which application is made; and
- (3) a description of the facilities afforded by the livestock auction market.

C. The application shall be accompanied by the payment of a license fee set by the board not to exceed the amount prescribed by law.

D. The applicant shall file with the packers and stockyards division of the United States department of agriculture a bond in the penal sum as prescribed by the packers and stockyards division and approved by the board

and conditioned that the principal shall comply with the terms of the surety and with all of the terms and conditions of Chapter 77, Article 10 NMSA 1978, with some surety company authorized to do business in this state.

E. If the applicant satisfies the conditions of application, the board shall issue a license good for one year to operate the livestock auction market at the location specified in the application.

F. A license issued in accordance with this section may be canceled by the board for violation of Chapter 77, Article 10 NMSA 1978 by the licensee, and the board may refuse to issue a license to a person whose previous license has been canceled or to any firm, association or corporation of which he is a member or by which he is employed.

G. It is unlawful for an operator to employ a person whose license was canceled by the board or to operate a livestock auction market in which that person has direct or indirect interest.

H. The bond required by this section shall be for the benefit of a person damaged by a breach of the condition of the bond, and the person damaged shall be entitled to bring an action on the bond in his own name. The board shall furnish a certified copy of the bond to a person who applies for a copy on payment of the fee set by the board for copy services."

Section 73. Section 77-10-3 NMSA 1978 (being Laws 1937, Chapter 59, Section 3) is amended to read:

"77-10-3. DUTIES OF LICENSEES.--The operator shall:

A. keep posted and on display in a conspicuous

place at the livestock auction market an unexpired, uncanceled license issued by the board as provided in Section 77-10-2 NMSA 1978;

B. keep the livestock auction market clean and sanitary and, whenever required by the board or a veterinarian authorized by the board, shall disinfect the livestock auction market or any part thereof and shall procure to be administered preventive or curative treatment of livestock in the possession of the operator, all under the supervision and direction of the board or its authorized veterinarian and without expense to the board;

C. allow the board and its members and officials and its inspectors and authorized veterinarians to have convenient access to the livestock auction market and its books and records or any livestock that may be in his possession at all reasonable times for the purpose of inspection;

D. post in a conspicuous place at the livestock auction market a schedule of all charges for services, accommodations and facilities that he holds himself out as ready, able and willing to furnish at the livestock auction market to owners of livestock and shall file a true copy of the schedule with the board. The schedule shall be the sole basis for all charges until a different schedule has been posted and filed;

E. immediately after the sale of any livestock at the livestock auction market, account and pay to the owner of the livestock the entire proceeds of the sale less his applicable scheduled charges;

F. make promptly after each sale and keep for a

period of three years a complete record of the sale that contains a description of the livestock sold, the name of the owner and of the purchaser, the date of sale, the sale price and the amount and items of the operator's charges and open all such records to examination by the board or its inspector at any time on request;

G. be responsible for the wrongful acts or omissions of his agents and employees; and

H. comply with and conform to all lawful rules of the board and shall cooperate with the board in preventing the spread of diseases through the operation of the livestock auction market and in the suppression of livestock theft."

Section 74. Section 77-10-4 NMSA 1978 (being Laws 1937, Chapter 59, Section 4, as amended) is amended to read:

"77-10-4. NOTICE TO BOARD OF RECEIPT OF LIVESTOCK-- CONTENTS--FEES.--Immediately on receipt of any livestock at the livestock auction market, the operator shall give written notice to the board in such form as the board may prescribe, stating the kind and number and description of the livestock received. At the same time, the operator shall collect and remit to the board or agent for the board the inspection fees prescribed by law for each head of livestock received. All money paid to the board shall be deposited to the proper board fund."

Section 75. Section 77-10-5 NMSA 1978 (being Laws 1937, Chapter 59, Section 5, as amended) is amended to read:

"77-10-5. LIVESTOCK INSPECTED BY BOARD INSPECTOR.--All livestock received at a livestock auction market shall be inspected by an inspector as soon as practicable. The

inspector shall satisfy himself as to the ownership of the livestock and the purpose for which it has been received. Before the removal of the livestock, it shall be again inspected as to ownership by an inspector, and the inspector shall conduct an inspection of the records documenting the receipt, sale or purchase of the livestock and may conduct a visual inspection of the livestock prior to issuing a certificate of inspection. The inspector shall issue his certificate of inspection and deliver one copy to the purchaser or his agent, one copy to the inspector at designation and forward the original to the board for filing."

Section 76. Section 77-10-9 NMSA 1978 (being Laws 1937, Chapter 59, Section 8 1/2, as amended) is amended to read:

"77-10-9. LIVESTOCK--OWNERS BOUND BY RULES.--Whenever an owner of livestock avails himself of the provisions of Chapter 77, Article 10 NMSA 1978, he is bound by the rules of the board as to health and ownership."

Section 77. Section 77-10-10 NMSA 1978 (being Laws 1937, Chapter 59, Section 9) is amended to read:

"77-10-10. VIOLATIONS--PENALTY.--A person who violates Chapter 77, Article 10 NMSA 1978 or any rule of the board made pursuant to that article is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978, and each day's violation constitutes a separate offense."

Section 78. Section 77-12-6 NMSA 1978 (being Laws 1923, Chapter 68, Section 6) is amended to read:

"77-12-6. DISTRAINT OF LIVESTOCK FOR DAMAGES.--A

person damaged by trespassing livestock may hold and detain the trespassing livestock until the damages that he has suffered and the costs, including a reasonable amount set by the board per head per day for feeding and caring for the livestock during the time the livestock is so detained, are paid or legally tendered. The person detaining the livestock shall give notice to the owner, if known or ascertainable, within forty-eight hours after detainer."

Section 79. Section 77-12-10 NMSA 1978 (being Laws 1923, Chapter 68, Section 10) is amended to read:

"77-12-10. FAILURE TO CLOSE GATE--PENALTY.--A person who opens and fails to close a gate provided for in Section 77-12-9 NMSA 1978 is guilty of a misdemeanor and on conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978."

Section 80. Section 77-12-11 NMSA 1978 (being Laws 1923, Chapter 68, Section 11) is amended to read:

"77-12-11. LIVESTOCK AT LARGE ON HERD LAW DISTRICT ROAD--PENALTY.--An owner or holder of livestock described in Section 77-12-6 NMSA 1978 who permits livestock to run at large on a public road within a herd law district is guilty of a misdemeanor and on conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978."

Section 81. Section 77-13-2 NMSA 1978 (being Laws 1907, Chapter 80, Section 2, as amended) is amended to read:

"77-13-2. IMPOUNDMENT OF ESTRAY ANIMALS.--

A. A person shall not impound an estray except when the estray is found on property the person owns or

controls. When a person impounds an estray, he shall, within five days of the impoundment, notify the director or an inspector of the impoundment.

B. A person having knowledge of an estray upon any public or private range, fenced or unfenced, may notify the director or an inspector, giving description of the estray, and upon instructions from the board or inspector the estray shall be turned over to an inspector for disposition as the board may direct according to law.

C. It is lawful for a person having knowledge of an estray grazing on public land, public highways or other lands used for grazing purposes in conjunction with public land and who has the prior approval of or is acting in cooperation with an agent of the board to impound and detain the estray for the purpose of ascertaining ownership by brand or other means of identification. The owner of the estray found to be in trespass shall be allowed forty-eight hours from receipt of notice of impoundment within which to claim the animal and make settlement for trespass damage. If the owner fails to claim the animal and effect a settlement for trespass damages within the time allowed, the estray detained shall be turned over to an inspector or other agent of the board for disposition in the same manner as provided for other estrays under Chapter 77, Article 13 NMSA 1978."

Section 82. Section 77-13-3 NMSA 1978 (being Laws 1907, Chapter 80, Section 3, as amended) is amended to read:

"77-13-3. EXAMINATION OF BRAND RECORDS--NOTICE TO OWNER--CHARGE FOR CARE--LIMITATION.--Upon receiving notice of the impoundment of an estray the director shall make or

cause to be made an examination of the brand records. If from this record the name of the owner or probable owner can be determined, the director shall notify the owner of the impoundment of the estray and, upon the owner proving to the satisfaction of the board that the estray is lawfully his, the board shall issue to him an order to receive the estray upon payment of any reasonable charges that may have been incurred in the care of the estray impounded."

Section 83. Section 77-13-5 NMSA 1978 (being Laws 1907, Chapter 80, Section 5, as amended) is amended to read:

"77-13-5. SALE OF UNCLAIMED ESTRAYS--BILL OF SALE--EFFECT--SALE WITHOUT ADVERTISEMENT--CONDITIONS.--If an estray is not claimed within five days after the last publication of notice, it may be sold by the board through an inspector in such manner as the board may direct. The inspector making the sale shall give a bill of sale to the purchaser from the board, signed by himself as inspector. The bill of sale shall be legal evidence of the ownership of the livestock by the purchaser and shall be a legal title to the livestock. Where the director determines that it is impractical to publish notice, the estray may be sold immediately without notice. In such case, the board shall publish notice of the proceeds from the sale of the estray in the same manner and for the same length of time as provided for the notice of the sale and shall hold and distribute the proceeds from the sale in the same manner as if the sale were made after notice."

Section 84. Section 77-13-6 NMSA 1978 (being Laws 1907, Chapter 80, Section 6, as amended) is amended to read:

"77-13-6. DISPOSITION OF PROCEEDS--RECORD OF SALE--

PAYMENTS TO OWNER.--The inspector making the sale of an estray shall return the proceeds of the sale to the board. The board shall pay the expenses incurred in the impounding, publishing of notice and selling of the animal and place the balance in the fund of the board, making a record of the same showing the marks and brands and other means of identification of the livestock and giving the amount realized from the sale. The record shall be open to the inspection of the public. Should the lawful owner of an estray that has been sold be found within two years after the sale of the livestock, the net amount received from the sale of the estray less the sum prescribed by law for office handling fees shall be paid to the owner upon his proving ownership to the satisfaction of the board."

Section 85. Section 77-13-8 NMSA 1978 (being Laws 1907, Chapter 80, Section 8, as amended) is amended to read:

"77-13-8. IMPOUNDING ESTRAY--FAILURE TO NOTIFY BOARD--PENALTY.--It is unlawful for a person other than an inspector to impound or retain possession of an estray except as provided in Sections 77-13-2 and 77-13-7 NMSA 1978. A person who impounds an estray contrary to the provisions of Chapter 77, Article 13 NMSA 1978 is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978 for each offense."

Section 86. Section 77-14-2 NMSA 1978 (being Laws 1977, Chapter 189, Section 1, as amended) is amended to read:

"77-14-2. DEFINITION.--As used in Chapter 77, Article 14 NMSA 1978, "proper military authority" means the

commanding officer or other person in charge of a military reservation or enclave."

Section 87. Section 77-14-3 NMSA 1978 (being Laws 1901, Chapter 28, Section 1, as amended) is amended to read:

"77-14-3. TRESPASS ON LANDS.--

A. It is unlawful for a person or his agents or employees having charge of livestock to permit or allow the livestock to go upon the lands of others in this state for the purpose of grazing or watering upon any waters upon the lands without the permission of the owner or legal claimant or his agent. The provisions of this section shall not be construed to affect the obligation of a property owner to meet the requirements of Section 77-16-1 NMSA 1978 for fencing against such trespasses and shall apply not only to titled lands in this state but to any lands upon which a person may have a valid existing filing under the laws of the United States or any lands that may be leased by any person from the state.

B. A person or proper military authority who claims the benefits of the protection of this section shall carefully and conspicuously mark the line of his lands so that such mark may be easily seen by persons handling livestock and shall post a notice upon the land conspicuously, warning against trespassing or shall serve personal written notice giving description of the land by government surveys or by metes and bounds."

Section 88. Section 77-14-7 NMSA 1978 (being Laws 1909, Chapter 146, Section 4, as amended) is amended to read:

"77-14-7. LIVESTOCK RUNNING AT LARGE--WHEN UNLAWFUL--

IMPOUNDING--SALE--SUIT FOR DAMAGES.--

A. After the publication and posting of an order pursuant to Section 77-14-6 NMSA 1978, it is unlawful for the owners of livestock to allow the livestock to run at large within the town, conservancy district, irrigation district or military reservation or enclave. An owner who willfully allows livestock to run at large in violation of the order is guilty of a misdemeanor and upon conviction shall be punished in accordance with the provisions of Section 31-19-1 NMSA 1978 for each offense.

B. The sheriff or other peace officer or proper military authority shall impound livestock found running at large and sell the livestock at public auction to the highest bidder for cash after giving notice of the time and place of sale in some newspaper published in the county where the violation occurred three days prior to the day of sale; provided that in the case of a military reservation or enclave, the sale shall be conducted by the board pursuant to the procedure set forth in Section 77-14-36 NMSA 1978. The proceeds up to five dollars (\$5.00) per day for each animal shall be retained by the impounding authority to cover its expense and fees. The balance, if any, shall be paid to the general fund.

C. The owner of livestock impounded may redeem the livestock at any time prior to sale by paying the impound fees and costs incurred for each day or portion of a day that the livestock has been in custody; provided that in the case of a military reservation or enclave, redemption shall be allowed pursuant to Section 77-14-36 NMSA 1978.

D. A person claiming damages for violation of the

order may file suit to recover damages as in other civil cases; provided that such damages, in the case of a violation involving a military reservation or enclave, shall include direct, indirect, incidental and consequential damages."

Section 89. Section 77-14-8 NMSA 1978 (being Laws 1919, Chapter 88, Section 1, as amended) is amended to read:

"77-14-8. IRRIGATION DISTRICTS--IMPOUNDING TRESPASSING ANIMALS.--Whenever a majority of the resident landowners who are qualified voters in any political subdivision of an irrigation section petitions the board of county commissioners in which the political subdivision is located for an order permitting trespassing livestock to be restrained and held for damages under the terms set forth in Sections 77-14-8 through 77-14-24 NMSA 1978, the board of county commissioners, at its first regular session after the filing of the petition with the county clerk, shall grant the request in the petition and cause an order to that effect to be duly entered. Sections 77-14-8 through 77-14-24 NMSA 1978 also apply to such animals as are kept, fed, pastured and maintained outside of the political subdivision and include livestock running on the range outside of or kept, fed, pastured and maintained outside of the political subdivision."

Section 90. Section 77-14-11 NMSA 1978 (being Laws 1919, Chapter 88, Section 4) is amended to read:

"77-14-11. RIGHT TO IMPOUND--FENCES.--After the order has taken effect, a person within the political subdivision finding any livestock trespassing upon his premises has the right to take up, hold and restrain the livestock for such

damages as it may have inflicted or he may deliver the livestock to the nearest magistrate to be held and impounded under the conditions set forth in Sections 77-14-8 through 77-14-24 NMSA 1978; provided, however, that no person has the right under those sections to hold and restrain livestock for damages when at the time of the trespass, the person did not have surrounding his premises a fence equivalent to that described in Chapter 77, Article 16 NMSA 1978. A fence greater or equivalent to such fence in strength and resisting power, constructed of other material, shall be considered sufficient for the purposes of Sections 77-14-8 through 77-14-24 NMSA 1978."

Section 91. Section 77-14-20 NMSA 1978 (being Laws 1919, Chapter 88, Section 14) is amended to read:

"77-14-20. FEES--APPOINTMENT OF POUNDKEEPER.--

A. The magistrate shall receive as fees for entering orders and issuing papers and performing other duties relating to Sections 77-14-8 through 77-14-24 NMSA 1978 the same as are provided by law in civil cases for similar services, and all persons serving papers pursuant to those sections shall be allowed the same fees as are allowed in civil cases for similar services. Arbitrators selected under the terms of those sections shall be allowed a reasonable fee for their services.

B. The magistrate shall set a reasonable charge per day for caring for the livestock. He shall feed and care for them while held by him. The magistrate may appoint some other person to act as poundkeeper. The poundkeeper shall hold the livestock subject to the orders of the magistrate and shall receive the same fees and costs as are

provided in this section for the magistrate in caring for and feeding the livestock."

Section 92. Section 77-14-22 NMSA 1978 (being Laws 1919, Chapter 88, Section 16) is amended to read:

"77-14-22. SALE OF LIVESTOCK--SURPLUS FUNDS--COSTS AND EXPENSES.--The magistrate, after paying all costs, fees and claims from the proceeds of a sale that is made under his direction as provided in Sections 77-14-8 through 77-14-24 NMSA 1978, shall pay the remainder to the owner of the livestock. If the owner is unknown, the magistrate shall deposit the proceeds of the sale, after paying all costs and claims, with the board, which shall handle the proceeds in accordance with the provisions of Chapter 77, Article 13 NMSA 1978. Provided, however, that in case the sale is made under execution, as provided in Section 77-14-18 NMSA 1978, the magistrate shall file with the officer making the sale a certified statement of all costs and expenses that may have accrued, which shall be paid by the officer selling the livestock under execution as other costs are paid."

Section 93. Section 77-14-35 NMSA 1978 (being Laws 1901, Chapter 54, Section 1, as amended) is amended to read:

"77-14-35. LIVESTOCK NOT TO RUN AT LARGE IN MUNICIPALITIES--TRESPASS--DAMAGES--PENALTY.--Livestock shall not be permitted to run at large within the limits of any city, town or village, incorporated or unincorporated, or to trespass upon the cultivated fields and gardens of any person. The owner of any livestock allowing the livestock to run at large within the limits of any city, town or village, incorporated or unincorporated, or to trespass upon the property of another is guilty of a misdemeanor and shall

be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978 and may be liable for treble the damage occasioned by such trespass. No owners of any property trespassed upon as mentioned in this section shall be liable for the injury, death or loss of any livestock resulting during expulsion from or impounding upon his property of the livestock actually trespassing."

Section 94. Section 77-17-1 NMSA 1978 (being Laws 1939, Chapter 115, Section 1, as amended) is amended to read:

"77-17-1. LICENSE AND BOND REQUIRED.--A person shall not conduct or carry on the trade of butcher or slaughterer of livestock or as a dealer in fresh meats or meat products or as a manufacturer or processor of meat or poultry products or operate a rendering plant or operate a cold storage locker plant in which cold storage lockers are rented or leased to other persons in this state without having first obtained a license and filed a bond as required by Sections 77-17-2 and 77-17-3 NMSA 1978."

Section 95. Section 77-17-2 NMSA 1978 (being Laws 1939, Chapter 115, Section 2, as amended) is amended to read:

"77-17-2. LICENSES--BUTCHER OR SLAUGHTERER--DEALER IN FRESH MEAT OR LIVESTOCK OR POULTRY MEAT PRODUCTS OR MEAT FROM OTHER BIRDS AND ANIMALS USED FOR HUMAN CONSUMPTION--COLD STORAGE LOCKER--RENDERING PLANT.--

A. A person carrying on or desiring to carry on the business of butcher or slaughterer of livestock used for human consumption shall procure a license from the board prior to carrying on the business and shall pay a yearly

license fee of twenty-five dollars (\$25.00).

B. In addition, such person may be charged reasonable fees for meat inspection service over and above the inspector's normal working assignment under the rules of the board pertaining to meat inspection.

C. Application for licensure shall be made upon a form prescribed by the board and shall be accompanied by the amount of the license fee provided in this section. The license fees shall not be prorated on account of the applicant doing business for less than a full calendar year, and license renewal fee in these same amounts shall be paid for each calendar year in which any person engages in the business and be paid at the time prescribed by rules of the board.

D. A person carrying on or desiring to carry on the business of selling or dealing in the fresh meat or meat products of livestock used for human consumption or livestock or poultry meat products or manufacturing or processing of meat or poultry products or operating a rendering plant or operating a cold storage locker plant in which cold storage lockers are rented or leased to other persons shall obtain a license to engage in the business from the board after making application upon forms prescribed by the board and upon payment of an annual license fee in an amount set by the board not to exceed ten dollars (\$10.00). Annual renewal fees are payable at times prescribed by rule of the board. No bond or bond filing fee is required for any person licensed pursuant to this subsection.

E. Licenses provided for in this section shall

not be issued to a person who is not meeting the requirements for facilities and product handling provided for in the federal and state meat inspection acts and United States department of agriculture food safety inspection service and board rules. For good cause shown, the board may, after notice to the holder of a license provided for in this section and after a reasonable hearing, revoke a license."

Section 96. Section 77-17-5 NMSA 1978 (being Laws 1939, Chapter 115, Section 4, as amended) is amended to read:

"77-17-5. DISPOSITION OF LICENSE FEES.--The proceeds from the license fees shall be paid into the board's interim receipts and disbursement fund for credit to the meat inspection division and shall be expended by the board for the same purposes and in a like manner as other money in the board's meat inspection division."

Section 97. Section 77-17-6 NMSA 1978 (being Laws 1939, Chapter 115, Section 5) is amended to read:

"77-17-6. PENALTY.--A person who violates any of the provisions of Sections 77-17-1 through 77-17-6 NMSA 1978 is guilty of a misdemeanor and upon conviction shall be punished in accordance with the provisions of Section 31-19-1 NMSA 1978."

Section 98. Section 77-17-7 NMSA 1978 (being Laws 1965, Chapter 127, Section 1) is amended to read:

"77-17-7. DEFINITION.--As used in Sections 77-17-7 and 77-17-8 NMSA 1978, "slaughterhouse" means an abattoir or a place where livestock are slaughtered."

Section 99. Section 77-17-9 NMSA 1978 (being Laws

1884, Chapter 47, Section 20, as amended) is amended to read:

"77-17-9. FAILING TO KEEP RECORD--PENALTY.--A person who carries on the business of butcher or slaughterer of livestock shall keep a true and faithful record, in a book kept for the purpose, of all livestock purchased or slaughtered by him together with a description of each animal, including marks, brands, age and weight and from whom purchased and the date of purchase. The person shall keep the hide and ears of cattle, sheep and goats for thirty days or until inspected by an inspector after the livestock is slaughtered. A person who violates a provision of this section is guilty of a misdemeanor for each offense and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978."

Section 100. Section 77-17-10 NMSA 1978 (being Laws 1884, Chapter 47, Section 21, as amended) is amended to read:

"77-17-10. INSPECTION OF RECORD, HIDES AND EARS.--The record, hides and ears of cattle, sheep and goats shall be open to the inspection by the board for the period of thirty days or until inspected by an inspector, and any butcher or slaughterer who refuses to permit such inspection or examination is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978."

Section 101. Section 77-17-12 NMSA 1978 (being Laws 1891, Chapter 45, Section 1, as amended) is amended to read:

"77-17-12. HIDES AND EARS TO BE KEPT--INSPECTION--PENALTY.--A person killing or causing to be killed any

livestock for his own use or for the use of others or for the purpose in whole or in part of sale or exchange is required to keep in his own possession, unchanged and unmutilated and in condition to be easily inspected and examined, all hides or pelts and ears of cattle, sheep and goats, for the period of thirty days after the killing or until inspected by an inspector and shall at any time while the hides or pelts and ears remain in his possession permit them to be inspected and examined by a sheriff, deputy sheriff, inspector or other officer authorized by law to inspect any hides and pelts or livestock, whether dead or alive. A person who violates the provisions of this section is guilty of a fourth degree felony and upon conviction shall be sentenced in accordance with the provisions of Section 31-18-15 NMSA 1978."

Section 102. Section 77-18-2 NMSA 1978 (being Laws 1987, Chapter 151, Section 1) is amended to read:

"77-18-2. SEIZURE AND DISPOSITION OF CRUELLY TREATED LIVESTOCK.--

A. If a livestock inspector or other peace officer has reason to believe that livestock are being cruelly treated, he may apply to a magistrate court in the county where the livestock are located for a warrant to seize the allegedly cruelly treated livestock.

B. On a showing of probable cause to believe that the livestock are being cruelly treated, the magistrate court shall issue a warrant and set the matter for hearing as expeditiously as possible within thirty days unless good cause for a later time is demonstrated by the state.

Seizure as authorized by this section shall be restricted to

only those livestock allegedly being cruelly treated. The board by rule shall establish procedures for preserving evidence of alleged cruel treatment of livestock.

C. The magistrate executing the warrant shall notify the board, have the livestock impounded and give written notice to the owner of the livestock of the time and place of the magistrate court hearing.

D. After all interested parties have been given an opportunity to present evidence at the hearing and if the court finds that the owner has cruelly treated the livestock, the court shall order the sale of the livestock at fair market value or order humane destruction. If the livestock is ordered sold, the sale shall occur within ten days of the order. If the court does not find that the owner has so cruelly treated the livestock, the court shall order the livestock returned to the owner.

E. If the magistrate court orders the sale of the livestock, the board shall take proper action to ensure the livestock is sold at fair market value, including acceptance of reasonable bids or sale at auction. A bid by the owner of the livestock or his representative shall not be accepted.

F. Proceeds from the sale of the livestock shall be forwarded to the magistrate ordering the sale. From these proceeds, the magistrate shall pay all expenses incurred in caring for the livestock while it was impounded and any expenses involved in its sale. Any excess proceeds of the sale shall be forwarded to the former owner. If the expenses incurred in caring for and selling the livestock are more than the amount received from the sale, the

magistrate court shall order the former owner to pay the additional cost."

Section 103. RECOMPILATION.--Sections 77-9-7, 77-9-18 and 77-9-19 NMSA 1978 (being Laws 1895, Chapter 6, Section 3 and Laws 1912, Chapter 55, Section 5 and 6, as amended) are recompiled in Chapter 77, Article 2 NMSA 1978.

Section 104. REPEAL.--Sections 77-2-11, 77-2-20, 77-3-6, 77-3-7, 77-3-19, 77-4-2, 77-4-3, 77-4-6, 77-4-7, 77-6-1 through 77-6-10, 77-8-8, 77-8-9, 77-8-11, 77-8-21, 77-9-1, 77-9-6, 77-9-12, 77-9-17, 77-9-25, 77-9-36, 77-9-37, 77-9-39, 77-9-47, 77-9-48, 77-9-52, 77-9-62, 77-14-1, 77-14-25 through 77-14-34, 77-14-37 through 77-14-39, 77-17-11, 77-17-13, 77-17-15 and 77-17-16 NMSA 1978 (being Laws 1889, Chapter 106, Sections 1 and 20, Laws 1917, Chapter 30, Sections 2 and 3, Laws 1889, Chapter 106, Section 16, Laws 1905, Chapter 31, Sections 2, 3, 6 and 7, Laws 1941, Chapter 150, Sections 1 through 10, Laws 1951, Chapter 188, Sections 17, 21 and 23, Laws 1963, Chapter 129, Section 7, Laws 1884, Chapter 47, Section 1, Laws 1975, Chapter 50, Section 2, Laws 1895, Chapter 6, Section 11, Laws 1912, Chapter 55, Section 3, Laws 1895, Chapter 6, Section 19, Laws 1891, Chapter 34, Section 13, Laws 1899, Chapter 53, Sections 1 and 3, Laws 1929, Chapter 87, Sections 6 and 7, Laws 1933, Chapter 43, Section 2, Laws 1969, Chapter 124, Section 1, Laws 1882, Chapter 42, Section 5, Laws 1927, Chapter 50, Sections 1 through 10, Laws 1921, Chapter 76, Sections 1 through 3, Laws 1884, Chapter 47, Section 22, Laws 1891, Chapter 45, Section 2 and Laws 1899, Chapter 44, Sections 1 and 2, as amended) are repealed.

Section 105. EFFECTIVE DATE.--The effective date of

